

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM E. POWELL,

Plaintiff,

CASE NO. 2:15-CV-11033
JUDGE PAUL D. BORMAN
MAGISTRATE JUDGE ANTHONY P. PATTI

v.

INTERNAL REVENUE SERVICE,

Defendant.

**ORDER DENYING PLAINTIFF'S
THIRD MOTION FOR A *VAUGHN* INDEX (DE 41)**

Currently before the Court is Plaintiff's third motion for a *Vaughn* index. (DE 41.) Within the last three months, the first was denied without prejudice and mentioned that it could be renewed during dispositive motion practice (DEs 24 and 30), and the second was denied and mentioned that dispositive motion practice had yet to begin. (DEs 39 and 40.) Moreover, this Court's October 22, 2015 order noted: "Procedurally, district courts typically dispose of FOIA cases on summary judgment before plaintiff can conduct discovery." *Rugiero v. United States*, 257 F.3d 534, 544 (6th Cir. 2001). (DE 38 at 2 n.3.) Furthermore, this same notation was given on November 12, 2015 in Plaintiff's other active case. (*See Powell v. IRS*, Case No. 2:15-cv-11616-PDB-APP (E.D. Mich.) (DE 23 at 2 n.2).)

In line with the September 8, 2015 order and the October 22, 2015 scheduling order, we are not yet in a period which can be described as being “during dispositive motion practice.” (DE 30 at 2, DE 38 at 2; *see also* DE 40 at 1.) Undaunted by the Court’s repeated and consistent answer to this request, Plaintiff somehow still believes that by repeating the request on a nearly monthly basis, he will get a different result. He seems unable to take “No” for an answer, thus wasting the valuable time of both the Court and the attorney for the Government.

For the reasons previously stated here, from the bench on September 3, 2015, in the Court’s previous orders (including but not limited to its scheduling order), and in the above-cited case law, the instant motion for a *Vaughn* index (DE 41) is yet again **DENIED**. To be clear, Plaintiff may not refile this motion or another motion requesting similar relief unless and until dispositive motions are pending before the Court. If he fails to heed this directive for the fourth time, he risks sanctions. Plaintiff is reminded that patience is a virtue, which needs to be exercised here.

IT IS SO ORDERED.

Dated: December 4, 2015

s/ Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on December 4, 2015, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti